IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4677 OF 2007

Maruti Ganpat Dhor & Anr. : Petitioners

V/s.

Vitthal Vividh Karyakari Sahakari Society

& Ors. : Respondents

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Mr.Y.S.Jahagirdar with Mr.S.S.Salunkhe for the petitioners.

Mr.S.A. Raja Shirke for respondent no.1.

Mr.R.V.Govilkar for respondent nos.2 & 3.

Mr.A.H.Palekar, Asstt. Govt. Pleader for respondent nos.4 & 5.

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CORAM : F.I.REBELLO & R.M.SAVANT,JJ.

DATE : JUNE 26, 2007.

P.C.

1. The petitioner has approached this Court praying for reliefs to quash and set aside the election programme dated 31.5.2007 and 21.5.2007 with a further prayer to direct respondent no.4 to hold elections or appoint an Election Officer of respondent no.1 society and for further reliefs. Pursuant to the notice issued, Chairman Chandrakant Mahadev Kadu has filed an affidavit. In his affidavit, he has set out that the Managing Committee at

its meeting held on 5.4.2007 passed a Resolution appointing respondent no.2, Nilkant Manikrao Shitole, as an Election Officer. The same was communicated to respondent no.2 on 6.4.2007. Similarly, the Managing Committee on 9.4.2004 sent letter to respondent no.4, Assistant Registrar, Daund, and informed about appointment of respondent no.2 as an Election Officer. It is pointed out that on 21.4.2007 the Assistant Registrar asked respondent no.1 to conduct the election process as per provisions of bye-laws of the society. It is thereafter set out that on 27.4.2007 respondent no.2 published provisional voters' list. Election programme was commenced on 31.5.2007. Results were declared on 23.6.2007 and one of the elected candidates is petitioner no.1.

2. On the other hand, one Balasaheb Haribhau Waghmode, Secretary, has filed an affidavit dated 20.6.2007 purporting to be an affidavit on behalf of respondent nos.1 and 3. In the affidavit, it is set out that meeting of the Committee was held on 18.4.2007 when the society decided to appoint respondent no.3 herein as an Election Officer. Respondent no.1 by letter dated 3.5.2007 informed respondent no.2 that his appointment was cancelled and respondent no.3 was appointed as an Election/Returning Officer. Respondent no.3 was informed

by letter dated 20.4.2007 of his appointment as an Election Officer/Returning Officer. It is set out that respondent no.3 published provisional list of voters on 25.4.2007 and then the final voters' list was published. The election programme has been published on 21.5.2007 and elections are scheduled to be held on 1.7.2007.

3. At the hearing of this petition, we called upon Mr.Govilkar, who appears for respondent no.3 and the Secretary who claims to represent the society, as to under what authority the Secretary had called the meeting, when under bye-law no.43 of the bye-laws, it is the Chairman who has to call the meeting and the Secretary merely communicates the same. The answer to this is that the Managing Committee called the meeting.

4. In view of the stand taken by the Chairman in his affidavit that the election process has been completed, we do not think it a fit case to exercise our extraordinary jurisdiction. Even otherwise, in view of the conflicting stand of the Chairman and Secretary raises disputed question of fact. Parties to proceed, if aggrieved, before the competent authorities under the provisions of the Maharashtra Co-operative Societies Act, 1960.

5. Apart from that, one disturbing fact is the usurpation

of the powers of the Chairman by the Secretary. We, therefore, direct the competent Assistant Registrar to conduct an inquiry into the actions of the Secretary and submit a report to this Court and the action taken, if any.

6. With the above observations, the petition stands disposed of with no order as to costs.

F.I. REBELLO, J.

R.M. SAVANT, J.